

South Carolina Board of Economic Advisors

Statement of Estimated State Revenue Impact

Date: June 21, 2007 (As amended June 20, 2007 by the Conference Committee)

Bill Number: S.B. 656

Authors: Leatherman; Moore; Leventis; McGill, *et. al.*

Committee Requesting Impact: Conference Committee

Bill Summary

A bill to amend Section 12-36-910, as amended, of the Code of Laws of South Carolina, 1976, relating to the imposition of the state sales and use tax and the special three percent sales and use tax imposed on unprepared food, so as to reduce this special rate on unprepared food from three percent to two percent effective January 1, 2008, to delete an obsolete provision, and to reduce this two percent rate in increments of one-half of one percentage point if the February fifteenth forecast of annual general fund growth for the upcoming fiscal year equals at least five percent of the most recent estimate of general fund revenue for the current fiscal year; and to amend Section 12-36-2120, as amended, relating to sales tax exemptions, so as to provide a permanent exemption for unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons beginning the July first that the phase-down of the state sales tax rate on unprepared food attains zero.

REVENUE IMPACT ^{1/}

This bill, as amended, would reduce sales and use tax revenue by an estimated \$135,000,000 in FY2007-08. This bill would reduce General Fund sales and use tax revenue by an estimated \$108,000,000 and would require the transfer of an estimated \$27,000,000 from the General Fund to hold harmless the EIA Fund in FY2007-08. This bill, as amended, would also reduce General Fund income tax revenue by an estimated \$86,361,150 in FY2007-08. In total, this bill, as amended, would reduce General Fund revenue by an estimated \$221,361,150 in FY2007-08.

Explanation of Amendment (June 20, 2007) – By the Conference Committee

Section 1. This section would add Section 11-11-220 to create a separate and distinct fund in the State Treasury styled the Contingency Reserve Fund. This fund would receive all general fund revenues accumulated in excess of general appropriations and supplemental appropriations. If the General Reserve Fund contains less than the constitutionally-mandated balance, there must be a transfer of all funds from the Contingency Reserve Fund to fully fund the General Reserve Fund. This section would not impact General Fund revenue in FY2007-08.

Section 2. This section would appropriate the first \$10,000,000 of state general fund surplus revenues from FY2006-07 to the State Department of Education to supplement school districts negatively affected by the lack of revision to the 2007 Final Index of Taxpaying Ability. Any appropriated funds not expended before July 1, 2008 would revert back to the state General Fund. This section would not impact General Fund revenue in FY2007-08.

Section 3B. This section would amend Section 12-36-2120 to add an appropriately numbered item to reduce the sales and use tax on the sale of unprepared food from the current three percent rate to zero beginning November 1, 2007. This section would reduce sales and use tax revenue by an estimated \$135,000,000 in FY2007-08. This amendment would reduce General Fund sales and use tax revenue by an estimated \$108,000,000 and would reduce EIA revenue by an estimated \$27,000,000 in FY2007-08.

Section 3C. This section would amend Section 12-36-910 to insert an EIA hold harmless provision to require that an amount equal to the difference between EIA Fund revenues from the sales tax on food

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in FY2007-08 and the amount of such revenue from the sales tax on food to the EIA Fund in FY2006-07 must be transferred from the General Fund of the State to the EIA Fund for FY2007-07 only. This section would reduce General Fund revenue by an estimated \$27,000,000 in FY2007-08.

Section 4. There is created in the State Treasury a separate and distinct fund to receive amounts appropriated to the State Ports Authority for the construction of a port access road. This fund may receive interest earnings and unexpended amounts may be carried forward to succeeding fiscal years and used for the same purpose. This section would not impact General Fund revenue in FY2007-08.

Section 5. This section would amend Section 12-6-510(A) to reduce the lowest marginal tax rate from 2.5% to 0% and additionally increasing the starting income level of the 3.0% marginal rate bracket. We estimate that reducing the 2.5% tax bracket to 0% would reduce total South Carolina individual income tax \$86,361,150 in FY2007-08.

Section 6. This section amends Section 59-149-50(A) to require that a student seeking a LIFE Scholarship must have graduated from high school with a minimum of a 3.0 cumulative grade average on a 4.0 scale and have scored "1100" or better on the Scholastic Aptitude Test (SAT) or have the equivalent ACT score. This section would not impact General Fund revenue in FY2007-08.

Section 7A. This section would add Section 59-104-25 to allow a resident student who is at least a sophomore attending a four-year public or private institution of higher learning in the State, who is majoring in science or mathematics and who is receiving a Palmetto Fellows Scholarship for the current year, shall receive an additional Palmetto Fellows Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed \$3,300 each year. This section would not impact General Fund revenue in FY2007-08.

Section 7B. This section would add Section 59-149-15 to allow a resident student who is at least a sophomore attending a four-year public or private institution of higher learning in the State, who is majoring in science or mathematics and who is receiving a LIFE Scholarship for the current year, shall receive an additional LIFE Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed \$2,500 each year. This section would not impact General Fund revenue in FY2007-08.

Section 7C. This section would amend Section 59-150-370(A) to increase the book allowance of a SC HOPE Scholarship recipient from \$150 to \$300 to cover the cost of attendance during the first year of attendance only. This section would not impact General Fund revenue in FY2007-08.

Section 8. This section would appropriate \$5,000,000 from the Contingency Reserve Fund to the South Carolina Research Authority for hydrogen grants. This section would not impact General Fund revenue in FY2007-08.

Section 9. This act takes effect upon approval by the Governor except where otherwise specified.

Explanation of Amendment (June 7, 2007) – By the Senate

Section 1. This section would add Section 11-11-220 to create a separate and distinct fund in the State Treasury styled the Contingency Reserve Fund. This fund would receive all general fund revenues accumulated in excess of general appropriations and supplemental appropriations. If the General Reserve Fund contains less than the constitutionally-mandated balance, there must be a

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transfer of all funds from the Contingency Reserve Fund to fully fund the General Reserve Fund. This section would not impact General Fund revenue in FY2007-08.

Section 2. This section would appropriate the first \$10,000,000 of state general fund surplus revenues from FY2006-07 to the State Department of Education to supplement school districts negatively affected by the lack of revision to the 2007 Final Index of Taxpaying Ability. Any appropriated funds not expended before July 1, 2008 would revert back to the state General Fund. This section would not impact General Fund revenue in FY2007-08.

Section 3A. This section would amend Section 12-36-910(D) to insert an EIA hold harmless provision to require that an amount equal to a sales tax rate of one percent on the sale of grocery store food must be credited to the EIA Fund. This amendment would reduce General Fund revenue by an estimated \$18,000,000 in FY2007-08. When the special rate on the sale of grocery store food equals one-half of one percent, an amount equal to a sales tax rate of one percent must be credited to the EIA Fund from General Fund revenue.

Section 3B. This section would amend Section 12-36-2120 to require that on the July first after the sales tax rate on the sale of grocery store food is reduced to zero percent, an amount equal to the revenue of a one percent sales tax on grocery store food must be credited annually from nonsales tax revenues to the EIA Fund as determined by the BEA. Section 12-36-2121 would take effect when the provisions of Section 12-36-910(D) in Section 1 above are met.

Section 4. There is created in the State Treasury a separate and distinct fund to receive amounts appropriated to the State Ports Authority for the construction of a port access road. This fund may receive interest earnings and unexpended amounts may be carried forward to succeeding fiscal years and used for the same purpose. This section would not impact General Fund revenue in FY2007-08.

Section 5. This section would amend Section 12-6-510(A) to reduce the lowest marginal tax rate from 2.5% to 0% and additionally increasing the starting income level of the 3.0% marginal rate bracket. We estimate that reducing the 2.5% tax bracket to 0% would reduce total South Carolina individual income tax \$86,361,150 in FY2007-08.

Section 6. This section would require the Board of Economic Advisors to deduct \$40,000,000 from the estimates for state individual and corporate income tax revenues to be credited to the S.C. Department of Transportation for FY2007-08 only. This section would raise funds earmarked to the State Highway Account by \$20,000,000 to be used only for the replacement, repair, and maintenance of bridges. This section would also raise funds earmarked to the State Non-Federal Aid Highway Fund by \$20,000,000 to be used only for the maintenance of roads in the state highway system. The bill would reduce state General Fund revenue for the Individual Income Tax by \$36,619,114 and for Corporation Income Tax by \$3,380,886 in FY2007-08, based on prorated estimates of the BEA.

Section 7. This section amends Section 59-149-50(A) to require that a student seeking a LIFE Scholarship must have graduated from high school with a minimum of a 3.0 cumulative grade average on a 4.0 scale and have scored "1100" or better on the Scholastic Aptitude Test (SAT) or have the equivalent ACT score. This section would not impact General Fund revenue in FY2007-08.

Section 8A. This section would add Section 59-104-25 to allow a resident student who is at least a sophomore attending a four-year public or private institution of higher learning in the State, who is

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majoring in science or mathematics and who is receiving a Palmetto Fellows Scholarship for the current year, shall receive an additional Palmetto Fellows Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed \$3,300 each year. This section would not impact General Fund revenue in FY2007-08.

Section 8B. This section would add Section 59-149-15 to allow a resident student who is at least a sophomore attending a four-year public or private institution of higher learning in the State, who is majoring in science or mathematics and who is receiving a LIFE Scholarship for the current year, shall receive an additional LIFE Scholarship stipend equal to the cost of attendance after applying all other scholarships or grants, not to exceed \$2,500 each year. This section would not impact General Fund revenue in FY2007-08.

Section 8C. This section would amend Section 59-150-370(A) to increase the book allowance of a SC HOPE Scholarship recipient from \$150 to \$300 to cover the cost of attendance during the first year of attendance only. This section would not impact General Fund revenue in FY2007-08.

Section 9. This act takes effect upon approval by the Governor except where otherwise specified.

Explanation of Amendment (June 6, 2007) – By the House of Representatives

Section 1. This section would add Section 11-11-220 to create a separate and distinct fund in the State Treasury styled the Contingency Reserve Fund. This fund would receive all general fund revenues accumulated in excess of general appropriations and supplemental appropriations. If the General Reserve Fund contains less than the constitutionally-mandated balance, there must be a transfer of all funds from the Contingency Reserve Fund to fully fund the General Reserve Fund. This section would not impact General Fund revenue in FY2007-08.

Section 2. This section would appropriate the first \$10,000,000 of state general fund surplus revenues from FY2006-07 to the State Department of Education to supplement school districts negatively affected by the lack of revision to the 2007 Final Index of Taxpaying Ability. Any appropriated funds not expended before July 1, 2008 would revert back to the state General Fund. This section would not impact General Fund revenue in FY2007-08.

Section 3A. This section would amend Section 12-36-910(D) to insert an EIA hold harmless provision to require that an amount equal to a sales tax rate of one percent on the sale of grocery store food must be credited to the EIA Fund. This amendment would reduce General Fund revenue by an estimated \$18,000,000 in FY2007-08. When the special rate on the sale of grocery store food equals one-half of one percent, an amount equal to a sales tax rate of one percent must be credited to the EIA Fund from General Fund revenue.

Section 3B. This section would amend Section 12-36-2120 to require that on the July first after the sales tax rate on the sale of grocery store food is reduced to zero percent, an amount equal to the revenue of a one percent sales tax on grocery store food must be credited annually from nonsales tax revenues to the EIA Fund as determined by the BEA. Section 12-36-2121 would take effect when the provisions of Section 12-36-910(D) in Section 1 above are met.

Section 4. This section would amend Section 12-6-510(A) to reduce the top marginal individual income tax bracket from 7.0% to 6.83% for taxable years beginning after 2006. Based upon the BEA's individual income tax estimate of \$3,401,273,503 in FY2007-08 made on February 15, 2007, reducing

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the top marginal individual income tax rate from 7.0% to 6.83% for tax year 2007 would require the use of \$80,980,000 of recurring funds in FY2007-08.

Section 5. This section would appropriate \$5,000,000 from the Contingency Reserve Fund to the South Carolina Research Authority for hydrogen grants. This section would not impact General Fund revenue in FY2007-08.

Section 6. This act takes effect upon approval by the Governor except where otherwise specified.

Explanation of Amendment (May 16, 2007) – By the House Ways & Means Committee

Section 1. This section would amend Section 12-36-910(D) to insert an EIA hold harmless provision to require that an amount equal to a sales tax rate of one percent on the sale of grocery store food must be credited to the EIA Fund. This amendment would reduce General Fund revenue by an estimated \$18,000,000 in FY2007-08. When the special rate on the sale of grocery store food equals one-half of one percent, an amount equal to a sales tax rate of one percent must be credited to the EIA Fund from General Fund revenue.

Section 2. This section would amend Section 12-36-2121 to require that on the July first after the sales tax rate on the sale of grocery store food is reduced to zero percent, an amount equal to the revenue of a one percent sales tax on grocery store food must be credited annually from nonsales tax revenues to the EIA Fund as determined by the BEA. Section 12-36-2121 would take effect when the provisions of Section 12-36-910(D) in Section 1 above are met.

Section 3. This section would amend Section 12-6-510(A) to reduce the top marginal individual income tax bracket from 7.0% to 6.83% for taxable years beginning after 2006. Based upon the BEA's individual income tax estimate of \$3,401,273,503 in FY2007-08 made on February 15, 2007, reducing the top marginal individual income tax rate from 7.0% to 6.83% for tax year 2007 would require the use of \$80,980,000 of recurring funds in FY2007-08.

Section 4. This act takes effect July 1, 2007.

Explanation of Amendment (April 26, 2007) – By the Senate

This amendment would reduce the sales and use tax on the sale of unprepared food from "two" percent to "one" percent beginning November 1, 2007. This amendment would reduce sales and use tax revenue by an estimated \$90,000,000 in FY2007-08. This amendment would reduce General Fund sales and use tax revenue by an estimated \$72,000,000 and would reduce EIA revenue by an estimated \$18,000,000 in FY2007-08.

Explanation of Amendment (April 18, 2007) – By the Senate Finance Committee

This amendment changes the effective date of the reduction of the sales and use tax on unprepared food from the current three percent rate to two percent beginning from "January 1, 2008" to "November 1, 2007". This amendment would reduce sales and use tax revenue by an estimated \$53,333,333 in FY2007-08. This amendment would reduce General Fund sales and use tax revenue by an estimated \$42,666,667 and would reduce EIA revenue by an estimated \$10,666,666 in FY2007-08. This amendment would also change the effective date of the bill from "January 1, 2008" to "July 1, 2007".

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Explanation of Bill filed April 5, 2007

This bill would amend Section 12-36-910(D) to reduce the sales and use tax on the sale of unprepared food which is purchased with United States Department of Agriculture food coupons to two percent beginning January 1, 2008. Based upon the Department of Revenue's survey of food sales tax remitters, each one percentage point reduction in the sales tax on food purchased at grocery stores for home consumption from the current three percentage point sales tax rate would reduce state sales tax revenue by an estimated \$80,000,000 in FY2007-08. Because the effective date of the sales tax rate reduction is not until January 1, 2008, state sales tax revenue would be reduced by one-half of a full fiscal year's amount, or an estimated \$40,000,000 in FY2007-08. Beginning with the February 15, 2008 forecast by the BEA, if the growth rate in General Fund revenue for the upcoming fiscal year is at least five percent compared to the current fiscal year's estimate, then the sales and use tax rate on food purchased at grocery stores may be reduced by one-half of one percentage point beginning the following July 1. The BEA would notify the Department of Revenue in writing that this requirement has been met. That rate would remain in effect until another formal review of General Fund growth rates is undertaken by the following February 15th forecast. This process would continue in one-half of one percentage point increments until the sales and use tax on food purchased at grocery stores is wholly eliminated. This bill also removes language pertaining to an EIA hold harmless clause that would replace revenue in the EIA for any revenue reduction caused by sales tax rate reduction on food.

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^{1/} This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.